

REMARKS

Claims 22, 36-39, 41, and 42 are pending herein. The Examiner objected to claims 36-39 and also rejected claims 22, 36-39, 41, and 42.

In light of the foregoing amendments and the following remarks, Applicants respectfully request reconsideration and allowance of all pending claims 22, 36-39, 41, and 42 under 37 C.F.R. §1.111.

Drawings.

The Examiner objected to the drawings because allegedly "two orifices are not labeled".

Applicants note that "two orifices" is recited in claim 22 and that "two orifices 54" is recited in paragraph [0096] of the specification as published relative to figure 13. The "two orifices 54" were inadvertently not labeled in fig. 13 and therefore they have now been so identified in fig. 13, in a replacement drawing sheet for figs. 13 and 14 that is being submitted herewith.

The Examiner also objected to the drawings because "posterior stabilizers of an anterior prosthesis" are allegedly not shown.

Applicants note that "posterior stabilizers of an anterior prosthesis" had been recited in claims 22 and 29, and in paragraph [0096] of the specification as published relative to figure 13. Examples of such separate, optional accessories are now shown and identified as "STABIL" in fig. 13, in the aforementioned replacement drawing sheet for figs. 13 and 14.

Claim Objections.

The Examiner objected to claims 36-39 for including reference to canceled claim 1.

Claims 36-38 have therefore been amended herein to overcome these objections; and claim 39 is believed to not require amendment since it depends upon currently amended claim 38 in this regard.

Claim Rejections - 35 U.S.C. §112.

The Examiner stated that claims 22, 36-39, 41, and 42 were rejected for allegedly being indefinite.

However, only claims 22, 38, 39, 41, and 42 were specifically referenced by the Examiner, and no reference to claims 36 and 37 was found in this regard. Therefore, Applicants believe that the Examiner rejected only claims 22, 38, 39, 41, and 42 under §112 in the present Office Action.

The Examiner rejected claims 22, 41, and 42 for allegedly being indefinite regarding a recitation of “the implant presenting a structure that is thin and flexible and comprising a support body”.

These claims have been amended to make it clear that the implant itself is “thin and flexible”.

Next, Applicants understand that the Examiner rejected claim 22 for allegedly being indefinite regarding a recitation of “posterior stabilizers of an anterior prosthesis” (this phrase had been present only in claim 22).

As aforementioned relative to the Examiner’s objections to the drawings, Applicants note that “posterior stabilizers of an anterior prosthesis” are recited in paragraph [0096] of the specification as published relative to figure 13. Examples of such separate, optional accessories

are now shown and identified as "STABIL" in fig. 13, in the aforementioned replacement drawing sheet. For further clarity, claim 22 has been amended in this regard, accordingly.

The Examiner also alleged that an "exact structure of posterior stabilizers of an anterior prosthesis is not clear." In response, Applicants note that such separate, optional accessories must simply be constructed so that they are capable of being received by orifices 54, as shown in the amended fig. 13 if they are to be utilized in combination with implant 51 as disclosed and claimed.

Applicants also understand that the Examiner rejected claim 22 for allegedly "using human body as reference points" regarding a recitation of "stabilizer[s] have passed through the uterosacral ligaments" (this phrase is present only in claim 22).

This claim has been amended, accordingly, to use "adapted to" language as requested by the Examiner.

The Examiner then rejected claim 38 for allegedly lacking antecedent basis regarding a recitation of "middle suspension stabilizers".

Applicants believe that this rejection is now moot in light of the aforementioned amendment to correct dependence on a canceled claim.

The Examiner next rejected claim 39 for allegedly lacking antecedent basis regarding a recitation of "the upper portion of the implant".

This claim has been amended, accordingly, by replacing "the upper portion" with -- an upper portion --.

Further, the Examiner rejected claim 41 for allegedly being indefinite regarding a recitation of "in part".

This claim has been amended, accordingly, by deleting "at least in part".

Lastly, the Examiner rejected claim 42 for allegedly being indefinite regarding a recitation of “further characterized”.

This claim has been amended to make it clear that the implant itself is “substantially flat and hammock-like”.

Claim Rejections - 35 U.S.C. §103.

The Examiner rejected claims 22, 36-39, 41, and 42 under 35 U.S.C. §103(a) as allegedly being obvious relative to Jacquetin (7,131,944) in view of Gellman (WO 98/35632).

Regarding claim 22, the Examiner alleges that Jacquetin discloses all features of the claim except for the recited “at least two orifices”, but that Gellman discloses “two orifices” in an implant body.

In response, Applicants traverse this ground of rejection.

Jacquetin is directed to a “method and apparatus for treating pelvic organ prolapses in female patients”. Jacquetin discloses: a two-armed anterior implant (fig. 1; and column 2, lines 19-21); a two-armed posterior implant (fig. 1; and column 2, lines 22-24); a four-armed anterior implant (fig. 10; and column 2, lines 37-39); and another two-armed posterior implant (fig. 11; and column 2, lines 40-42). It is understood to those of skill in the art that an “anterior implant” is utilized to treat anterior vaginal conditions such as cystocele, while a “posterior implant” is utilized to treat posterior vaginal conditions such as rectocele. Thus, Jacquetin in fact does not disclose or suggest a posterior implant with four or more arms as described, illustrated, and claimed in the present application.

Gellman discloses a sling for urethral suspension that may be utilized for treating incontinence; it would not be utilized for treating posterior vaginal prolapse conditions. Suburethral slings and posterior implants are separate and distinct devices, and their indications for use are likewise separate and distinct. Furthermore, as known to those of skill in the art, use of these devices likewise requires separate and distinct dissection planes in implantation surgery.

Thus, Applicants respectfully assert that all features of claim 22 are in fact not present in Jacquetin combined with Gellman since neither reference teaches or suggests a posterior implant with four or more arms that is utilized to treat rectocele. Neither reference provides any motivation to combine their teachings even if, hypothetically, they did provide some teaching or suggestion to provide an implant for treating rectocele having, among other significant points of distinction, four or more arms. In this regard, Applicants note that the well-established "teaching-suggestion-motivation" test for obviousness has not been overruled by KSR International Co. v. Teleflex Inc.

Therefore, Applicants believe that no amendment is necessary to claim 22 to overcome the rejection under Jacquetin and Gellman, and withdrawal of this rejection is respectfully requested.

Regarding claims 36-39, 41, and 42, the Examiner continues to allege that Jacquetin discloses all features of the claims as stated relative to claim 22, except for various other features of these remaining claims.

Applicants also traverse these rejections since, as aforementioned, Jacquetin does not disclose a posterior implant having, among other significant points of distinction, four or more arms as disclosed and claimed in the present application. Applicants therefore believe that no amendments to claims 36-39, 41, and 42 are necessary to overcome the rejections, and withdrawal of the rejections is respectfully requested accordingly.

Moreover, with respect to all of the obviousness rejections herein, Applicants note that examination guidelines published by the USPTO in the Official Gazette on 06 November, 2007, state in relevant part that "[w]hen considering obviousness of a combination of known elements, the operative question is thus 'whether the improvement is more than the predictable use of prior art elements according to their established functions'." (fn. 16, quoting KSR, 82 USPQ2d at 1396). In this case, the invention certainly amounts to more than "the predictable use of prior art elements according to their established functions". As aforementioned, Jacquetin discloses two-armed posterior implants while Gellman discloses a suburethral sling. These references, either

alone or in combination, do not predict Applicants' novel and non-obvious implants for treating rectocele or associated surgical methods.

Previously submitted Information Disclosure Statement

Applicants note that a supplemental Information Disclosure Statement By Applicant (3 pages of listed references) was previously submitted herein on 12 March, 2008. Applicants request that the Examiner consider and initial each reference so presented.

CONCLUSION

Applicants submit that claims 22, 36-39, 41, and 42 are in condition for allowance, which action is respectfully requested.

The Examiner is invited to telephone the undersigned Counsel if such would further prosecution.

Respectfully submitted,
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